

BSA 60-DAY REPONSE

Recommendation 1

To ensure it can adequately respond to funding levels that may vary from its business plan, the Authority should develop and publish alternative funding scenarios that reflect the possibility of reduced or delayed funding from the planned sources. These scenarios should detail the implications of variations in the level or timing of funding on the program and its schedule.

Response

Staff has contacted the authority's contractor for financial analysis and planning requesting preparation of a set of alternative project funding scenarios based on best and worst case projected funding outcomes. The contractor has prepared a methodology¹ for developing those funding scenarios and is in the process of preparing a set of alternative funding scenarios that will provide details of the potential effect of various changes in anticipated funding and sources.

Recommendation 2

In order to adequately plan for private investment, the Authority should further specify the potential costs of planned revenue guarantees and who should pay for them.

Response

Staff is working with the Authority's financial consultant as well as its bond counsel to provide a discussion² of what constitutes a "revenue guarantee" versus an operating subsidy versus a capital costs reimbursement and will provide a clear explanation of the difference as those terms apply to the high-speed train project. It will also identify how much any such guarantees would cost and which government entities might be responsible for those guarantees.

Recommendation 3

In order to respond effectively to circumstances that could significantly delay or halt the program, the Authority should assure that it implements planned actions related to managing risk.

Response

As was noted in our initial response, the Authority has hired a risk insurance manager to provide technical and managerial advice and consultation across the spectrum of risk management, project insurance and related industry issues as they pertain to risks inherent in the California High-Speed Rail Program.³

The Program Manager has revised its risk and mitigation development protocol⁴. The revised risk management protocol provides guidance to regional teams for preparation of lists of uncertain future events that have the potential to impact project objectives. These potential risk

¹ Consultant methodology will be attached to the 60-day response to the Bureau of State Audits

² A memo requesting of consultants to produce an analysis will be attached to the 60-day response to the Bureau of State Audits

³ The risk manager's task schedule is attached.

⁴ The Risk Register and Development Protocol document is attached.

lists, or risk registers, contain all individually identified risks to a regional team's schedule and budget to develop a picture of the challenges facing the project.

In addition, the Organizational Assessment Report prepared by the Authority's organization consultant identified a key position of Project Controls and Risk Management. Staff will identify the specific duties, knowledge, skills and abilities required of a project controls and risk management position and will seek authorization for the position of Manager, Project Control and Risk Management in the Authority's 2011-12 budget. Upon approval of the position, staff will develop a timeline for filling the position.

Finally, the Authority is in the process of establishing an internal audit office that will report to the Chief Executive Officer and the Audit Committee of the Board. Staff recently developed a draft charter⁵ for the internal audit office and is currently developing duty statements to identify the duties, knowledge, skills and abilities of the audit staff. The Authority intends to have the audit positions filled by August 2010. The addition of the internal audit office will significantly aid the Authority in identifying risks to its contracting processes as well as the internal control environment.

Recommendation 4

To avoid possible legal challenges, the Authority should ensure that the review group adheres to the Meeting Act or seek a formal opinion from the Office of the Attorney General regarding whether the review group is subject to this act.

Response

Staff will work with the Authority's legislative contacts to obtain a clarification⁶ of the purposes and operational procedures the Legislature intended with regard to the peer review group. To the extent that the response to the request for clarification is sufficient to conclude that the peer review group is not subject to meeting laws, the Authority will accept the advice provided by the Attorney General's Office attorney assigned to the Authority as guidance with regard to the applicability of meeting laws to the peer review group.

Recommendation 5

To ensure that it does not run out of funds for administrative and preconstruction activities prematurely, the Authority should track expenditures for these activities and develop a long-term spending plan for them. It should also develop procedures and systems to ensure it complies with Recovery Act requirements.

Response

The Authority's computer system has been enhanced to include a system for tracking administrative and program expenditures, including mechanisms for tracking compliance with Recovery Act requirements.⁷ The enhancement is in final development and will be online by the end of May 2010. It will provide a segregation of administrative and preconstruction

⁵ The draft charter for the internal audit office is attached.

⁶ A copy of the letter to the Legislature will be attached to the 60-day response to the Bureau of State Audits.

⁷ The statement of work for the tracking system to be implemented by the Authority's information technology contractor is attached.

expenditures and will provide updates of expenditures versus forecasts. To allocate administrative costs associated with Authority operations such as salaries and benefits, rent, general expenses, etc., the system will include the Department of Finance uniform cost code scheme, and expenditures will be entered into the system under the appropriate cost codes. To allocate preconstruction expenditures, the system will use Work Breakdown Structure (WBS) and project cost codes based on tasks specified in the program management contract. The system will enable Authority staff to develop long-term spending plans and track expenditures to forecasts. The system will alert staff when specific expenditure categories are projected to exceed forecast expenditure levels.

The program management contractor now develops spending plans and cost projections for each year of pre-construction activities based on tasks included in the contract. The program management staff submits to their management weekly timesheets which are the basis for tracking expenditures specified in the contract tasks. Overall expenditures are measured against expenditure forecasts to identify areas where they may exceed forecasts and to measure progress toward goals. When the Authority's system is fully functional and prior data have been entered, regional contractors and regional managers will provide all contract related information, including expenditures related to invoices and contract tasks and verification of regional manager invoice approval, for entry into the system.

Recommendation 6

The Authority should participate in the development of key policy documents, such as the authority's business and strategic plans. Further, Authority members should adhere to their policies and procedures, including those outlining how they may communicate with contractors.

Response

An item has been placed on the Board's Executive/Administrative Committee meeting agenda⁸ requesting the adoption of a comprehensive policy for Board participation in all Authority policy issues.

Recommendation 7

In order to ensure that staff receives relevant information on the status of the program, the Authority should amend the project oversight consultant's work plan to include a critical review of the progress reports for accuracy and consistency. Authority staff should also request that the Program Manager revise its progress reports to include information on the status of contract products and services.

Response

Authority staff has directed the project oversight consultant's to include in its work plan provisions requiring a critical review of the program management contractor's progress reports, including requirements that the reports contain a discussion of overall program status, key issues, significant accomplishments, progress and cost, and any work performed outside the scope of the approved work program. These provisions will ensure accuracy and consistency in the Program Manager's progress reports.⁹ The program manager has already revised its progress report

⁸ Both the agenda and Board action items will be provided to the Bureau of State Audits in the 60-day response.

⁹ The Authority's direction to the project oversight consultant is attached.

format and process to ensure that the reports accurately reflect the status of project products and services.¹⁰

Recommendation 8

To determine if it is paying invoices that accurately reflect work performed, the Authority should ensure that staff adheres to controls for processing invoices. For example, staff should not pay invoices from regional contractors until they receive notification from the Program Manager that the work billed has been performed, or until they have conducted an independent verification.

Response

The Program Manager has developed a system for review and verification of regional contractor monthly progress reports and invoices.¹¹ The system requires regional contractors to post monthly progress reports and invoices to the ProjectSolve system and to mail invoices to the Authority by the 15th of each month. The Program Manager's regional managers review the progress reports and invoices against actual work performed and post comments to ProjectSolve indicating whether the invoices are approved or not approved. Authority staff receives verification that that relevant information has been provided to support regional contractor invoices and that regional managers have performed a review of the invoices against work performed and have approved them for payment. Additionally, the Regional Managers notify the Authority via separate e-mail that the regional consultant invoice has been either approved or disapproved for further Authority action. The system is in place and functioning as described. However, as noted previously, when the Authority's expenditure tracking system is fully functional, regional contractors will post invoices and supporting documentation to the system and regional managers will also verify that invoice amounts correspond to work performed via the system for review and approval by Authority staff.

Recommendation 9

To ensure that it does not misuse public funds and can hold contractors accountable, the Authority should adhere to conditions of its contracts and work plans, and make any amendments and modifications in writing.

Response

Authority staff will ensure that changes to tasks included in contracts' scope of work are memorialized as amendments to contracts. Per a formalized memo¹² recently issued, the Authority will not informally request changes to any approved contract tasks or to add additional tasks.

¹⁰ The revisions the Program Manager has made to the monthly progress reports include an environmental milestone schedule with the percent of completion toward the NOD/ROD; a key issues summary; and Program Manager and Regional Consultant highlights by project section. Revisions underway but not yet complete include improvements to regional consultant section summary schedules and improvements to the Program Manager's monthly schedule.

¹¹ A description of the system and a system flowchart is attached.

¹² Memo will be attached to the 60-day response to the Bureau of State Audits.

Recommendation 10

To determine if payment controls are implemented, the authority should ensure its written policies and procedures reflect intended controls over invoice processing and offer sufficient detail to guide staff. These procedures should include steps for documenting implementation of invoice controls.

Response

Authority staff is in the process of amending its contract administration manual to include appropriate controls over invoice processing. The controls will include a description of the invoice payment process, the parties responsible for reviews and verifications, and the procedures for resolving invoice discrepancies. The contract administration manual will provide specific details on the process the Authority expects the program manager to use in its review and approval of invoiced amounts and will require staff to ensure that the process is used by the program manager.

The contract administration manual will also provide policies developed to deal with funds provided under the American Recovery and Reinvestment Act. As previously noted, the Authority's expenditure tracking system will generate information required by the act, such as funds received and expended, estimated jobs created and information about infrastructure investments. The policies will cover controls over processing funds received and expended, including reviews and approvals for those actions, as well as other data required by the act.